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APPLICATION NO.	F	ILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/803,523		03/17/2004	James E. Price	2095001US2AP	5473	
45069	7590	09/02/2005		EXAMINER		
FRED ZOL	LINGE	R III	PICKETT, JOHN G			
P.O. BOX 2368 NORTH CANTON, OH 44720			ART UNIT	PAPER NUMBER		
	· · · · · · · · · · · · · · · · · · ·			3728		
				DATE MAILED: 09/02/200	DATE MAILED: 09/02/2005	

Please find below and/or attached an Office communication concerning this application or proceeding.

		Application No.	Applicant(s)			
		10/803,523	PRICE ET AL.			
	Office Action Summary	Examiner	Art Unit			
		Gregory Pickett	3728			
Period fo	The MAILING DATE of this communication ap or Reply	ppears on the cover sheet with the	correspondence address			
A SH WHIC - Exter after - If NO - Failu Any (ORTENED STATUTORY PERIOD FOR REPLEMENTED IN THE MAILING ENTERIOR IS LONGER, FROM THE MAILING Ensions of time may be available under the provisions of 37 CFR 1. SIX (6) MONTHS from the mailing date of this communication. In period for reply is specified above, the maximum statutory period reto reply within the set or extended period for reply will, by statutively received by the Office later than three months after the mailing patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICATION .136(a). In no event, however, may a reply be tind d will apply and will expire SIX (6) MONTHS from te, cause the application to become ABANDONE	N. mely filed the mailing date of this communication. TO (35 U.S.C. § 133)			
Status						
1)🖂	Responsive to communication(s) filed on 22.	June 2005.				
	This action is FINAL . 2b) This action is non-final.					
3)	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is					
	closed in accordance with the practice under	Ex parte Quayle, 1935 C.D. 11, 4	53 O.G. 213.			
Dispositi	on of Claims					
5)⊠ 6)⊠ 7)⊠	Claim(s) 1-19 is/are pending in the application 4a) Of the above claim(s) 11 is/are withdrawn Claim(s) 15-19 is/are allowed. Claim(s) 1-8 and 12 is/are rejected. Claim(s) 9,10,13 and 14 is/are objected to. Claim(s) are subject to restriction and/o	from consideration.				
	on Papers	·				
	The specification is objected to by the Examin					
10)⊠	The drawing(s) filed on 17 March 2004 is/are: Applicant may not request that any objection to the Replacement drawing sheet(s) including the correct The oath or declaration is objected to by the E	a) \square accepted or b) \square objected to drawing(s) be held in abeyance. Section is required if the drawing(s) is ob	e 37 CFR 1.85(a). jected to. See 37 CFR 1.121(d).			
Priority u	ınder 35 U.S.C. § 119					
12)[] a)[Acknowledgment is made of a claim for foreign All b) Some * c) None of: 1. Certified copies of the priority document Certified copies of the priority document Copies of the certified copies of the priority document Copies of the certified copies of the priority document Copies of the certified copies of the priority document Copies of the certified copies of the priority document Copies of the certified copies of the priority document Copies of the certified copies of the priority document Copies of the certified copies of the priority document Copies of the certified copies of the priority document Copies of the priority documen	nts have been received. Its have been received in Applicationity documents have been received in Application (PCT Rule 17.2(a)).	ion No ed in this National Stage			
Attachmen	t(s)					
2) 🔲 Notic 3) 🔯 Inforr	e of References Cited (PTO-892) e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08 r No(s)/Mail Date <u>3/17/04</u> .	4) Interview Summary Paper No(s)/Mail D 5) Notice of Informal F 6) Other:	(PTO-413) ate Patent Application (PTO-152)			

Art Unit: 3728

DETAILED ACTION

1. Applicant's election of Group I, and the species of figures 7 & 8, in the reply filed on 22 June 2005 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Claims 1-19 are pending in the application. Claim 20 has been canceled. Applicant asserts that all claims read on the species of Figures 7 & 8; the examiner respectfully disagrees with this assertion. Claim is clearly directed to the species of Figures 1-6 and is withdrawn from further consideration as being directed to a non-elected invention. Claims 1-10 and 12-19 are herein examined on their merits.

Claim Rejections - 35 USC § 102

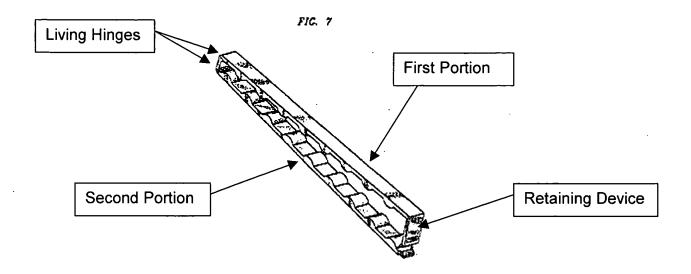
The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 2. Claims 1, 6, and 7 are rejected under 35 U.S.C. 102(b) as being anticipated by Eisenman (Des. 384,459).
- Claim 1: Eisenman discloses the claimed holder as shown below. Eisenman operates as claimed and although the device is disclosed primarily for use with socks, it is inherently capable of holding a firework (such as a small firecracker) as claimed.

Application/Control Number: 10/803,523

Art Unit: 3728



Claim 6: Eisenman pivots as claimed.

Claim 7: Eisenman discloses living hinges as shown above.

3. Claims 1-5 and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Rohwedder (US 1,816,399).

Claim 1: Rohwedder discloses first portion (front arm of 2 in Figure 1), second portion (back arm of 2 in Figure 1), and retaining device 4. Although Rohwedder is disclosed primarily for use with bread, it is inherently capable rectangular-shaped fireworks as claimed.

Claims 2 and 3: Rohwedder discloses a first cord portion (end half of 4 without loop 5) and a second cord portion (end of 4 with loop 5), which function as claimed.

Claim 4: Rohwedder discloses an opening (ends of 2 over which 3 is applied) with the cord portions extending across the opening as claimed (see Figure 1).

Art Unit: 3728

Claim 5: Rohwedder discloses cord lock 7.

Claim 12: Rohwedder is capable of folding flat.

4. Claims 1 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by Schooley (US 2,129,039).

Claim 1: Schooley discloses a safety holder (Figure 1) with a first portion **13** and a second portion **19**, and retaining device **23**. First and second portions are movable as claimed and the holder is designed for holding fireworks.

Claim 8: Schooley discloses anchor 10.

Allowable Subject Matter

- 5. Claims 15-19 appear to distinguish over the prior art of record.
- 6. Claims 9, 10, 13, and 14 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
- 7. As allowable subject matter has been indicated, applicant's reply must either comply with all formal requirements or specifically traverse each requirement not complied with. See 37 CFR 1.111(b) and MPEP § 707.07(a).

Application/Control Number: 10/803,523

Art Unit: 3728

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to

applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the

examiner should be directed to Gregory Pickett whose telephone number is 571-272-

4560. The examiner can normally be reached on Mon-Fri, 11:30 AM - 8:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's

supervisor, Mickey Yu can be reached on 571-272-4562. The fax phone number for the

organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the

Patent Application Information Retrieval (PAIR) system. Status information for

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Business Center (EBC) at 866-217-9197 (toll-free).

Croa Biok

Greg Pickett

Examiner

30 August 2005

mikeyof

Mickey Yu Supervisory Patent Examiner

Page 5

Group 3700